

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
09 DEC 16 PM 4:56

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID METZGER,

Defendant.

1 : 09-cr-0188LJM -KPF

Cause No. 1:09

SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

INDICTMENT

COUNTS 1-15

(Production of Child Pornography)

The Grand Jury charges that:

In or about 2008, in Kokomo, Indiana, in Howard County, within the Southern District of Indiana and elsewhere, DAVID METZGER, the defendant herein, did employ, use, persuade, induce, entice and coerce any minor to engage in sexually explicit conduct for the purpose of producing and attempting to produce any visual depiction of such conduct, and the defendant knew and had reason to know that such visual depiction would be transported in interstate or foreign commerce or mailed, or that such visual depiction was produced using materials that had been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or that such visual depiction having actually been transported in interstate or foreign commerce or mailed, to wit: on the separate occasions indicated below, DAVID METZGER employed, used, persuaded, induced, enticed, or coerced the minors named below, to engage in sexually explicit conduct for the purpose of producing and attempting to produce a visual depiction of such conduct as defined in Title 18, United States Code, Section 2256(2) as follows:

Count	Minor and Year of Birth	Item	Description
1	Jane Doe 3 (1999)	Mini DV, DVM 60, Panasonic Brand stamped "1038ES3AR" and "822851D"	Jane Doe 3 near white robe and cylindirical shaped object
2	Jane Doe 5 (1997)	Mini DV, DVM 60, Panasonic Brand stamped "1038ES3AR" and "822851D"	Jane Doe 5 near white robe and cylindirical shaped object
3	Jane Doe 1 (2000)	Mini DV, DVM 60, Panasonic brand stamped "8058BS3AR" and "842634D"	Jane Doe 1 near red bed covering and cylindirical shaped object
4	Jane Doe 7 (2000)	Mini DV, DVM 60, Panasonic brand stamped "8058BS3AR" and "842634D"	Jane Doe 7 near red bed covering and cylindirical shaped object
5	Jane Doe 3 (1999)	Mini DV, DVM 60 (label covering other stampings)	Jane Doe 3 near cylindirical shaped object
6	Jane Doe 1 (2000)	Mini DV, DVM 60 (label covering other stampings)	Jane Doe 1 near cylindirical shaped object
7	Jane Doe 4 (2001)	Mini DV, DVM 60 (label covering other stampings)	Jane Doe 4 near cylindirical shaped object
8	Jane Doe 3 (1999)	Mini DV, DVM 60, Panasonic brand stamped "8058BS3AR" and "842635D"	Jane Doe 3 near red bed covering and purple clothing
9	Jane Doe 2 (2001)	Mini DV, DVM 60, Panasonic brand stamped "8058BS3AR" and "842635D"	Jane Doe 2 near red bed covering and purple clothing
10	Jane Doe 4 (2001)	Mini DV, DVM 60, Panasonic brand stamped "8058BS3AR" and "842635D"	Jane Doe 4 near red bed covering and black clothing

11	Jane Doe 1 (2000)	Printed picture on paper	Jane Doe 1 with pink cylindrical shaped object and near red bed covering
12	Jane Doe 1 (2000)	Printed picture on paper	Jane Doe 1 near green and gray blanket.
13	Jane Doe 3 (1999)	Electronic files in computer named IMG_2474.JPG IMG_2475.JPG IMG_2476.JPG IMG_2477.JPG IMG_2478.JPG IMG_2484.JPG IMG_2485.JPG	Pictures of Jane Doe 3 near red bed covering and couch
14	Jane Doe 3 (1999)	Electronic file in computer named "(Jane Doe 3) Flashing in car.01.jpg"	Jane Doe 3 wearing purple clothing with green and blue flowers
15	Jane Doe 6 (1999)	Electronic files in computer named: IMG_1736.JPG IMG_1737.JPG IMG_1738.JPG	Jane Doe 6 with blue background

Each of which is a separate violation of Title 18, United States Code, Sections 2251(a) and (e).

COUNT 16
(Production of Child Pornography)

The Grand Jury further charges that:

In or about 2002-2003, in Kokomo, Indiana, in Howard County, within the Southern District of Indiana and elsewhere, DAVID METZGER, the defendant herein, did employ, use, persuade, induce, entice and coerce any minor to engage in sexually explicit conduct for the purpose of producing and attempting to produce any visual depiction of such conduct, and the defendant knew and had reason to know that such visual depiction would be transported in interstate or foreign commerce or mailed, or that such visual depiction was produced using materials that had been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or that such visual depiction having actually been transported in interstate or foreign commerce or mailed, to wit: in 2002-2003, DAVID METZGER employed, used, persuaded, induced, enticed, or coerced Jane Doe 8, born in 1996, to engage in sexually explicit conduct for the purpose of producing and attempting to produce a visual depiction of such conduct as defined in Title 18, United States Code, Section 2256(2) of the electronic files 10BalloonGrl001.jpg, 10BalloonGrl002.jpg, and 10BalloonGrl003.jpg.

All of which is a violation of Title 18, United States Code, Sections 2251(a) and (e).

COUNT 17
(Possession of Child Pornography)

On or about October 28, 2009, in Kokomo, Indiana, in Howard County, within the Southern District of Indiana, DAVID METZGER, the defendant herein, knowingly possessed more than one (1) image, film, videotape, or other matter which contained any visual depiction that had been mailed, or had been shipped or transported in interstate or foreign commerce, or which was produced using materials which had been mailed or so shipped or so transported, by any means including by computer, the producing of such visual depiction having involved the use of a minor engaging in sexually explicit conduct and such visual depiction was of such conduct; that is, DAVID METZGER knowingly possessed, among other items: 1) Computer hard drives; 2) Thumb drives; 3) CDR and DVD disks; and 4) Hard copy prints containing the files and images described below, all of which contained visual depictions of minors engaging in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(2):

Item	Description
Western Digital Hard Drive, SN WCAU46481636	IMG_1736.JPG
	IMG_1737.JPG
	IMG_1738.JPG
	10BalloonGrl001.jpg
	10BalloonGrl002.jpg
	10BalloonGrl003.jpg
	Cindy0-2.jpg
	Cindy0-3.jpg
	Cindy0-4.jpg
	Cindy0-5.jpg

	Cindy0-6.jpg
	Cindy0-7.jpg
	Cindy0-18.jpg
	Cindy1-1.jpg
	Cindy1-2.jpg
	Cindy1-3.jpg
	Cindy1-4.jpg
	Cindy1-5.jpg
	Cindy5-1.jpg
	FUCMAC01.JPG
	FUCMAC04.JPG
	FUCMAC06.JPG
	FUCMAC08.JPG
	FUCMAC14.JPG
	FUCMAC18.JPG
	FUCMAC23.JPG
	FUCMAC24.JPG
	Video_001.avi
	Xi & Jo's Nude.avi
	Xi & Jo's Nude.wmv
	Xi & Jo.wmv
	1230871541485.jpg
	1230872789223.jpg
	123091054500.jpg
	1230913797177.jpg
	1230914579284.jpg
	aV1nxNnS-e4c66a25e8ff 28064ca3377d888bc5c7.jpg
	1229237146560.jpg


	5YO HELEN 036.JPG
	5YO HELEN 038.JPG
	5YO HELEN 040(1).JPG
	5yo HELEN fucks daddy PCHT12 pedo.jpg
	\Tara\01.JPG
	\Tara\0122.jpg
	\Tara\013.jpg
Thumb Drive, black color, PNY Attache, 4 GB	1231875874468.jpg
	dcb4520080831145856.jpg
	33222_p24_123_142lo.jpg
	aV11591A-e4c66a25e8ff28064 ca3377d888bc5c7.jpg
Western Digital Hard Drive, SN WCAL93413973	IMG_2473.JPG
	IMG_2474.JPG
	IMG_2475.JPG
	IMG_2476.JPG
	IMG_2477.JPG
	IMG_2485.JPG
	IMG_2488.JPG
	IMG_2514.JPG
	pthe hussyfan childporn (101).jpg
	pthe hussyfan childporn (105).jpg
	pthe hussyfan childporn (106).jpg
	pthe hussyfan childporn (128).jpg
	pthe hussyfan childporn (129).jpg
	pthe hussyfan childporn (13).jpg
	pthe hussyfan childporn (138).jpg
	pthe hussyfan childporn (139).jpg

	pthc hussyfan childporn (15).jpg
	pthc hussyfan childporn (175).jpg
	pthc hussyfan childporn (176).jpg
	pthc hussyfan childporn (179).jpg
	pthc hussyfan childporn (186).jpg
	pthc hussyfan childporn (64).jpg
Thumb drive, black color, HP brand, 4GB	1250599304091.jpg
	1260602293196.jpg
	1250607657493.jpg
	1250607723571.jpg
	1250607903245.jpg
	Pq117J70-e2c47dd00dd91 a01e009ac789e78ba8f.jpg
	Pq118exS-e2c47dd00dd91a01e 009ac789e78ba8f.jpg
	466f567a048c.jpg
Compact Disk, Memorex Brand CDR, marked UN and 071708-MISC001	18-4.JPG
	18-5.JPG
	21-1.JPG
	23-4.JPG
	9977050ewh.jpg
	9979636wdo.jpg
	23-3.JPG
Memorex Brand DVD marked "MISC PICS 001"	dcp00227.jpg
	dcp00618.jpg
	dcp01018.jpg
	dcp01020.jpg
	dcp01021.jpg
	dcp01124.jpg

	dcp01352.jpg
	dcp01693.jpg
Memorex Brand DVD with writing "Special for A Friend."	1501.jpg
	1521.jpg
	1531.jpg
	01.JPG
	02.JPG
	.31.JPG
	Tara 9y 07.jpg
Mini DV, DVM 60, Panasonic Brand stamped "1038ES3AR" and "822851D"	Unnamed several minute video.
Mini DV, DVM 60, Panasonic brand stamped "8058BS3AR" and "842634D"	Unnamed several minute video.
Mini DV, DVM 60 (label covering other stampings)	Unnamed several minute video.
Mini DV, DVM 60, Panasonic brand stamped "8058BS3AR" and "842635D"	Unnamed several minute video.
Printed picture on paper	Jane Doe 1 with pink cylindrical shaped object and near red bed covering
Printed picture on paper	Jane Doe 1 near green and gray blanket.
Western Digital Hard Drive Serial Number WCAL94673757	IMG_2474.JPG
	IMG_2475.JPG
	IMG_2476.JPG
	IMG_2477.JPG
	IMG_2478.JPG
	IMG_2484.JPG
	IMG_2485.JPG
	"(Jane Doe 3) Flashing in car.01.jpg"

	IMG_1736.JPG
	IMG_1737.JPG
	IMG_1738.JPG

All of which is a violation of Title 18, United States Code, Sections 2252(a)(4)(B).


FOR PERSON

TIMOTHY M. MORRISON
United States Attorney

by: Gayle L. Helart
Gayle L. Helart
Assistant United States Attorney

FORFEITURE

1. The United States hereby gives the defendant notice that it intends to seek forfeiture of property pursuant to Title 18, United States Code, Section 2253 as part of any sentence imposed.

2. If convicted of one or more of the offenses set forth in Counts One through Seventeen of the Indictment, DAVID METZGER, defendant herein, shall forfeit to the United States the defendant's interest in:

1) any visual depiction described in Title 18, United States Code, Section 2251, 2251A, or 2252, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of Title 18, United States Code, Chapter 110;

2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense.

Such property includes, but is not necessarily limited to, the following specific items:

- one custom built computer tower with no serial number
- one external hard drive, serial number WCAPW4492632
- one green tote containing miscellaneous cables, speakers, keyboard, disks, thumbdrives, one notepad, three compact flash media cards, 2 SD media cards, one webcam, and one Asia fever playing card
- one LG computer monitor, serial number 710NDNUA6415
- miscellaneous cables, keyboard, sata dock
- one computer keyboard
- one VHS CCD video camera in case
- one LG monitor, model L226WTQ, serial number 711NDTC52177
- one computer tool and parts kit
- computer speakers
- keyboard, mouse, miscellaneous cables and disks
- keyboard, cables mother board, monitor cal., empty hard drive enclosure
- one custom built computer tower
- one LG monitor, model W2353VQV, serial number 902NDL86J184
- multiple hard drives enclosure containing 4 hard drives, and miscellaneous disks

- speakers, mouse and cables
- green tote with miscellaneous cables, disks, hard drive enclosure with Fujitsu 2½-inch 40 gigabyte hard drive, Maxtor 80 gigabyte hard drive and scanner
- green tote with scanner, miscellaneous cables and components and eight hard drives
- one custom built computer tower
- one Gateway laptop computer model MD7818U, serial number 85015658125
- one Western Digital external hard drive
- one LG 42-inch television, model 42LG50UG, serial number 902RMBW140885
- green tote with seven thumb drives, Olympus digital camera in case, Cannon digital camera DS6041 in case, miscellaneous cables, gun holster, miscellaneous notes, miscellaneous pictures, plastic handle, miscellaneous power supplies, disks
- green tote with miscellaneous disks, miscellaneous cables, wireless router, NAS storage containing two hard drives, cable modem, Belkin network hub, VHS/DVD player, miscellaneous chargers
- green tote with disks, 2-sata dock, TB hard drive, flatbed scanner, surge protector, ADS portable digital display device, keyboard and video converter
- green tote with red sheets, miscellaneous disks, three hard drives, miscellaneous photographs of known juveniles, album with negatives, miscellaneous cables, network switch
- one JVC VHS C camcorder, one JVC mini DV camcorder, one JVC digital camcorder, 14 mini DV tapes, 3 VHS C tapes, one VHS tape
- Mini DV, DVM 60, Panasonic brand, stamped 1038ES3AR and 822851D
- Mini DV, DVM 60, Panasonic brand, stamped 8058BS3AR and 842634D
- Mini DV, DVM 60, label covering other stampings
- Mini DV, DVM 60, Panasonic brand, stamped 8058BS3AR and 842635D
- various hard copy printed pictures on paper
- Western Digital computer hard drive, serial number WCAU46481636
- black, 4-gigabyte, PNY Attache thumb drive
- Western Digital computer hard drive, serial number WCAL93413973
- black, 4-gigabyte, Hewlett Packard thumb drive
- Memorex CDR compact disk, marked "UN" and 071708-MISC001
- Memorex DVD video disk, marked "MISC PICS 001"
- Memorex DVD video disk with writing "Special for A Friend"
- Western Digital computer hard drive, serial number WCAL94673757

Substitute Assets

3. Pursuant to Title 21, United States Code, Section 853(p), through 28 U.S.C. § 2461(c), the court shall order the forfeiture of any other property of the defendant, up to the value of any property described in paragraph 2, if, by any act or omission of the defendant, the property described in paragraph 2, or any portion thereof:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;

- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty.

In keeping with the foregoing, it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of all forfeitable property as described above in Paragraph 2.